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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,866	03/23/2004	Ted M. Dean	Tru Vision-002	5509
21897 7590 06/05/2008				
THE MATTHEWS FIRM				
2000 BERING DRIVE				
SUITE 700				
HOUSTON, TX 77057				
EXAMINER				
NORDMEYER, PATRICIA L				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
06/05/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/807,866

Applicant(s)

DEAN ET AL.

Examiner

Patricia L. Nordmeyer

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Repeated Rejections

1. The 102(c) rejection of claims 1, 2, 4, 5, 12 and 13 as anticipated by Miles (USPN 6,383,591) in the office action dated December 27, 2007 is repeated as Applicant's amendments and arguments are found to be unpersuasive. The rejection is repeated below for Applicant's convenience.

With regard to the amendment of said adhesive elements each having at least one edge, wherein none of the plurality of plastic strip edges coincides with any of the adhesive element, Miles discloses a plurality of adhesive elements (col. 12, lines 16-18 recites a line of adhesive dots), each having a width less than said given width (each dot is interpreted to have a width less than the given width), wherein the dot would have an edge that does not coincide with any of the edges of the plastic strip.

Miles relates to a strip (10) comprising an elongated, narrow strip (14) of plastic (col. 13, lines 15-18) having a given width (figure-1), and having a longitudinal axis (figures 1-2), said strip of plastic having a first coated side (col. 6, lines 42-48), the coating on said first side covering the entire surface of such first side (because the patent does particularly specify that it is partially coated as arguably admitted by the applicant is the Appeal Brief of 10/2/2007, page-5, lines 17-18), and a second uncoated side (figure-2 showing the side with the adhesive (26)), whereby said coated side allows said strip to be easily rolled up and unrolled from a roll (col. 6,

lines 42-48); and a plurality of adhesive elements (col. 12, lines 16-18 recites a line of adhesive dots), each having a width less than said given width (each dot is interpreted to have a width less than the given width), laminated to said uncoated side of said strip of plastic, said adhesive elements being aligned along the longitudinal axis of said strip (because the adhesive can be in a discontinuous pattern such as dots are in a line form), and having a predetermined spacing between each two of said plurality of adhesive elements (because the dots form a discontinuous pattern). The preamble phrase “A merchandising strip” is not found to be of positive limitation because the portion of the claim following the preamble phrase does not rely on the preamble for the completeness of its structure. Further, the phrase “for displaying a plurality of discrete packages” is not given any patentable weight because it is directed to an intended use of the claimed product structure. For claim 2, the plastic strip is clear plastic (col. 13, lines 17 mentions that the strip can be transparent). For claim 4, the coating on said first side is comprised of silicone (col. 6, lines 42-48). As for claim 5, said adhesive elements each have a circular configuration (because dots are known to have circular configuration). For claim 12, the strip has first and second ends and has a hole (such as perforation as recited in col. 12, lines 32-33 located which includes a hole at each end of the line of perforations) near one end of said strip. The phrase “to allow said to be hung vertically for display” is not found to be of positive limitation because it is directed to an intended use of the claimed product. Regarding claim 13, the strip has first and second holes, one such hole being near each end of said strip (such as perforation as recited in col. 12, lines 32-33 which includes a hole at each end of the line of perforations). The phrase “to allow said to be hung vertically for display without regard to the

orientation of any such package attached to said adhesive elements” is not found to be of positive limitation because it is directed to an intended use of the claimed product.

2. The 102(c) rejection of claims 6 – 11 over Miles (USPN 6,383,591) in the office action dated December 27, 2007 is repeated as Applicant’s amendments and arguments are found to be unpersuasive. The rejection is repeated below for Applicant’s convenience.

Miles, as discussed above, fails to teach that the adhesive elements configuration is rectangular, square, triangular, pentagonal, oval, or star. It would have been an obvious matter of design choice to modify Miles’ adhesive pattern such that each of the adhesive elements having the dot shape is modified to have a rectangular, square, triangular, pentagonal, oval or star configuration to provide for a discontinuous pattern for controlling the adhesiveness, and such a change in shape would have obvious to one having ordinary skill in the art.

Response to Arguments

3. Applicant’s arguments filed March 26, 2008 have been fully considered but they are not persuasive.

In response the Applicant’s argument that the prior art fails to show said adhesive elements each having at least one edge, wherein none of the plurality of plastic strip edges coincides with any of the adhesive element, Miles discloses a plurality of adhesive elements (col. 12, lines 16-18 recites a line of adhesive dots), each having a width less than said given width

(each dot is interpreted to have a width less than the given width), wherein the dot would have an edge that does not coincide with any of the edges of the plastic strip. While Miles clearly states that the adhesive is along one side of the substrate, Miles does not state that the edge of the adhesive coincides with the edge of the substrate.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571)272-1496. The examiner can normally be reached on Mon.-Thurs. from 10:00-7:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L. Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patricia L. Nordmeyer
Primary Examiner
Art Unit 1794

/Patricia L. Nordmeyer/
Primary Examiner, Art Unit 1794